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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL SAMANIEGO,

Defendant and Appellant.

D056184

(Super. Ct. No. SCD220306)

APPEAL from a judgment of the Superior Court of San Diego County, Kathleen M. Lewis, Judge. Affirmed.

Michael Samaniego entered a negotiated guilty plea to attempted murder (Pen. Code,¹ §§ 664, 187, subd. (a)) for the benefit of a criminal street gang (§ 186.22, subd. (b)(1)) with personal firearm use (§ 12022.5, subd. (a)) and personal infliction of great bodily injury (§ 12022.7, subd. (a)), and two counts of assault with a firearm (§§ 245, subd. (a)(2)) with personal firearm use. The court sentenced him to a stipulated

¹ All further statutory references are to the Penal Code.

26-year 8-month prison term: for attempted murder, the nine-year upper term; the 10-year upper term for personal firearm use; three years for personal infliction of great bodily injury; and a stayed term for the gang enhancement; and for each assault, one year (one-third the middle term) with 16 months (one-third the middle term) for personal firearm use. Samaniego appeals. We affirm.

BACKGROUND

On April 13, 2009, Samaniego, a member of the Linda Vista 13 street gang, went to the North Clairemont Recreation Center with other gang members. Samaniego was armed with a revolver. He and his fellow gang members approached the unarmed victim and the victim's companions. Samaniego believed the victim was a member of a rival gang. Samaniego confronted the victim about gang membership and announced he was from Linda Vista 13. The victim referred to Linda Vista 13 in a derogatory manner. Samaniego challenged the victim to a fight, pulled his gun and shot the victim with the intent to kill him. The bullet hit the victim, causing great bodily injury. Samaniego told the victim Linda Vista 13 claimed the area, and then he fled with the other Linda Vista 13 gang members.

The court appointed an attorney to evaluate the possibility of a motion to withdraw Samaniego's plea. The attorney concluded he could not, in good faith, file such a motion.

DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436.

Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel lists, as a possible but not arguable issue, whether Samaniego should be allowed to withdraw his guilty plea based on his belief that he was not properly advised by the court or was pressured by his counsel or codefendants to accept the plea offer.

We granted Samaniego permission to file a brief on his own behalf. He has not responded. A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738 has disclosed no reasonably arguable appellate issues. Samaniego has been competently represented by counsel on this appeal.

DISPOSITION

The judgment is affirmed.

HALLER, J.

WE CONCUR:

McCONNELL, P. J.

O'ROURKE, J.